

Message Text

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ACTION EB-08

INFO OCT-01 EA-07 ISO-00 SSO-00 INRE-00 NSCE-00 CAB-02
CIAE-00 COME-00 DODE-00 DOTE-00 INR-07 NSAE-00 CIEP-01
FAA-00 L-03 SS-15 NSC-05 H-01 /050 W
-----110921Z 005403 /10

O 110830Z FEB 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 5933

C O N F I D E N T I A L MANILA 2186

E.O. 11652: GDS

TAGS: EAIR, RP

SUBJECT: CIVAIR: CAB SET TO DISAPPROVE PAL ALL-CARGO APPLICATION

REF: STATE 030478

SUMMARY: EMBASSY BELIEVES THAT PROPOSED CAB ACTION IN
REFTEL WOULD CONSTITUTE A VIOLATION OF THE 1974 INTERIM
AIR AGREEMENT AND INVITE GOP RETALIATION AGAINST FLYING
TIGERS THREE WEEKLY CARGO FLIGHTS. END SUMMARY

1. EMBASSY BELIEVES THAT PROPOSED CAB RECOMMENDATION TO
PRESIDENT THAT HE DISAPPROVE PAL APPLICATION FOR THREE
WEEKLY ALL-CARGO FLIGHTS WOULD CONSTITUTE A VIOLATION
OF THE INTERIM AIR AGREEMENT OF AUGUST 10, 1974. THE
LANGUAGE IN THE AGREEMENT IS UNAMBIGUOUS AND INDEED
GENEROUS, VIZ., THAT THE USG OFFERS PAL THE OPTION TO
BE EXERCISED UPON APPLICATION WITH USCAB.

2. ON ITS PART THE GOP IS COMMITTED TO GIVE SYMPATHETIC
CONSIDERATION TO APPLICATIONS FROM US AIRLINES FOR ALL-
CARGO SERVICES. IT HAS PERMITTED FLYING TIGERS (FT)
TO CONTINUE ITS THREE WEEKLY ALL-CARGO FLIGHTS BUT HAS
TAKEN NO ACTION ON THE FT APPLICATION FOR A CHANGE
IN EQUIPMENT FROM DC-8 TO 747. THE AGREEMENT IS
SILENT ON ALL-CARGO EQUIPMENT, AND THE GOP CAN
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LOGICALLY ARGUE THAT THERE IS A SYMMETRY IN THREE
PAL AND THREE FT FLIGHTS WITH BOTH USING DC-8'S.

3. THERE WAS INDEED AN UNDERSTANDING BY THE USG,
WHICH WAS ACKNOWLEDGED BY THE GOP DURING THE
NEGOTIATIONS, THAT THE EXISTING ALL-CARGO RIGHTS
ENJOYED BY US CARRIERS WOULD NOT BE ALTERED.

THE FLYING TIGER SERVICES HAVE NOT BEEN DISTURBED. AS FOR PANAM'S ALL-CARGO SERVICES, THESE CONSISTED OF THREE MILITARY CARGO FLIGHTS A WEEK WITH A GOP AUTHORIZATION THAT ONE FLIGHT A WEEK CAN CARRY COMMERCIAL CARGO UP TO 8,181 KILOS A MONTH. PAL HAS CHARGED THAT PANAM HAS VIOLATED THE GOP AUTHORIZATION BY CARRYING MORE THAN 8,181 KILOS A MONTH. THE GOP CUT OFF THESE PANAM FLIGHTS IN NOVEMBER 1974.

4. SUBSEQUENTLY IN MAY 1975 PANAM FILED AN APPLICATION FOR ONE ALL-CARGO FLIGHT A WEEK. IN JUNE 1975 THE PHILCAB DEFERRED ACTION ON THE APPLICATION FOR FURTHER STUDY, AND THERE THE MATTER RESTS. WE ARE NOT SURE WHETHER PANAM IS STILL INTERESTED IN ALL-CARGO FLIGHTS TO MANILA, OR WHETHER IT IS INTENT ON FLOGGING A DEAD HORSE TO THE DETERIMENT OF ITS OVERALL INTERESTS IN THE PHILIPPINES.

5. WHILE THE EMBASSY UNDERSTANDS THE NATURAL TENDENCY OF USCAB TO SEEK TO USE THE PAL APPLICATION AS LEVERAGE, THE PROPOSED RECOMMENDATION STANDS ON SHAKY LEGAL GROUNDS. THE GOP WOULD CONSIDER SUCH ACTION A VIOLATION OF THE AGREEMENT AND AN AFFRONT, FOR PAL'S REQUEST FOR THREE ALL-CARGO FLIGHTS IS NOT ONLY EXPRESSLY PROVIDED FOR IN THE AGREEMENT BUT CAN ONLY BE DEEMED REASONABLE IN THE LIGHT OF THE THREE EXISTING FLYING TIGER FLIGHTS. IN THESE CIRCUMSTANCES, THE GOP MAY CANCEL THE FT FLIGHTS IN RETALIATION, AND IT WILL BE ON SOLID LEGAL GROUNDS. CONFIDENTIAL

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6. I WISH TO CALL THIS MATTER TO ATTENTION HIGHEST APPROPRIATE LEVEL IN DEPT. AND PARTICULARLY TO ASK LEGAL ADVISOR'S RULING ON OUR INTERPRETATION OF LETTERS OF AGREEMENT. STATE DEPT. MUST RPT MUST TAKE MORE ACTIVE RESPONSIBILITY IN RESTRAINING USCAB FROM CAPRICIOUS ACTIONS IN ASSOCIATION WITH INTERNATIONAL UNDERTAKINGS. WHILE I CAN WELL SYMPATHIZE WITH IRRITATION BY U.S. BUREAUCRATS IN FACE ANNOYING BEHAVIOR BY FILIPINOS, I SEE NO RPT NO REASON THAT WE SHOULD CONDONE OR PERMIT EQUALLY IRRESPONSIBLE REACTIONS BY U.S. AGENCIES. THESE MATTERS CAN BE EVENTUALLY RESOLVED BY SOME PATIENT DIPLOMACY. THEY SHOULD NOT BE EXACERBATED BY ARBITRARY AND PETTY DECISIONS ON OUR PART. PLEASE TAKE URGENT ACTION TO ASSURE THAT USCAB WILL APPROVE THE PAL APPLICATION AS OUR AGREEMENT REQUIRES, PREFERABLY BEFORE AVIATION NEGOTIATING TEAM ARRIVES HERE FEB. 16. SULLIVAN

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